

# ~~INSTALLMENT FEES~~

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS  
Western Division

JAN 26 '04 PM 4:18 USB

In Re:

04 - 30025 - MAP

NEWCARE HEALTH CORPORATION,  
et al.,

Debtors.

CASE NUMBER: 99-44161-HJB, et al.  
Jointly Administered  
CHAPTER 7

GARY M. WEINER, Chapter 7 Trustee  
for the estate of NEWCARE HEALTH  
CORPORATION, et al.,  
Plaintiff

vs.

CHRISTOPHER F. BROGDON, et al.  
Defendants

ADVERSARY PROCEEDING  
NO: 01-4188-HJB

FILED  
CLERK'S OFFICE  
JAN 26 - 6 A.M. '04  
U.S. DISTRICT COURT  
DISTRICT OF MASS.

**STATEMENT OF ELECTION TO HAVE  
APPEAL HEARD BY U.S. DISTRICT COURT**

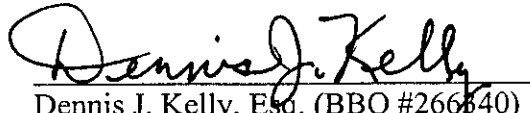
Pursuant to 28 U.S.C. § 158(c)(1) and Federal Bankruptcy Rule 8001(e), Defendants James J. Andrews, Christopher F. Brogdon, Connie B. Brogdon, Tygh Brogdon, Brentwood Health Care, LLC, Chamber Health Care Society, Inc., Chamber Pasco, LLC, Fitzgerald Health Care, Inc., Gordon Jensen Health Care Association, Inc., Kingsport Senior Housing, LLC, Robert G. Lancaster, Estate of Edward E. Lane, Harlan Mathews, National Assistance Bureau, Inc., Philip M. Rees, Retirement Group, LLC, Rockdale Retirement, Inc., James H. Sanregret, Sea Breeze Health Care Center, Inc., Senior Care, Inc., Southeastern Cottages, Inc., Darrell C. Tucker, Wellington Healthcare Management, LLC and Winter Haven Homes, Inc. (collectively, the "Defendants") elect to have their appeal from the order of the Bankruptcy Court, Boroff, J.,

326

denying Defendants' Motion to Compel Production of Documents, heard by the U.S. District Court, rather than the Bankruptcy Appellate Panel.

Respectfully submitted,

CHRISTOPHER BROGDON, et. al.,  
By their attorneys,

  
Dennis J. Kelly, Esq. (BBO #266540)  
Paul R. Mastrocola, Esq. (BBO #530664)  
Victoria L. Schmidt, Esq. (BBO #650000)  
Burns & Levinson LLP  
125 Summer Street  
Boston, MA 02110  
(617)345-3000

Dated: January 26, 2004

JAN26'04 PM 4:19 USB

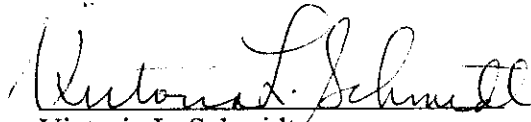
**CERTIFICATE OF SERVICE**

I, Victoria L. Schmidt, Esq., attorney for the Defendants, do hereby certify that I have this 26th day of January, 2004, served a copy of the foregoing Statement of Election, via first class mail, postage prepaid, upon the following:

Paula M. Bagger, Esq.  
Cooke, Clancy & Gruenthal, LLP  
150 Federal Street  
Boston, MA 02110

U.S. Trustee's Office  
600 Main Street  
Worcester, MA 01608

Carl D. Aframe, Esq.  
Aframe & Barnhill  
1 Exchange Place  
Worcester, MA 01608

  
Victoria L. Schmidt